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## **PUBLIC SCHOOL CHOICE**

By

Anne C. Walker

Assistant Director of Research

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314/751-2979

B. Darrell Jackson, Ph.D.  
Director of Research

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This policy brief is intended to survey a current issue for members of the Missouri House of Representatives and not to advocate a particular position on the issue.

## PUBLIC SCHOOL CHOICE

Allowing parents and students to choose which public school a student will attend has recently emerged as an important policy option. This issue brief defines the policy in a public school context, identifies Choice models, describes Missouri law relating to Choice, and discusses key elements in recent legislation in several Midwestern states. The brief provides a synopsis of the pros and cons of this policy.

## TYPES OF CHOICE

Historically educational choice discussions focused on selection of a school or program of instruction from among a variety of school settings: public, private, and parochial. Current debate has narrowed that focus to the public schools.

There are two types of public school "Choice" policy: *intradistrict* and *interdistrict*. Intradistrict Choice typically allows parents and student to choose among schools within a district. This policy, which local boards of education can normally establish without legislative approval, attempts to serve resident students. Within the public school system intradistrict choice has existed in several forms. Vocational schools offer an enrollment option for high school students. Alternative schools and magnet schools provide varied and specialized courses. An example of a successful intradistrict choice program is

East Harlem's elementary "choice" schools, begun in the early 1970's.

The second type of public school choice, interdistrict Choice, is generally described as an "open enrollment" plan and is the focus of most legislation. Typically, a state law authorizes parents to choose to send their child outside of their school district of residence to their school district of choice. Modifications tailor these policies to each state and often to regions or cities within states. It is interdistrict Choice, parents and students choosing a public school located in a district other than the one in which they live, that is the focus of this brief.

## MISSOURI LAW

In examining Missouri's laws relating to "Choice", attention must be given to two policy fundamentals: the authorization of Choice and the funding of it.

Section 167.151 of the Revised Statutes of Missouri states that "the school board of any district, in its discretion, may admit to the school pupils not entitled to free instruction and prescribe the tuition fee to be paid...". This implies that parents may choose to send their child to a district other than the student's district of residence, subject to acceptance by the other district and payment of any tuition prescribed. But Choice is not mandated for any district. Rather it is a local option.

Missouri's system of school finance does not encourage Choice. The school foundation formula (Section 163.031, RSMo) distributes



state money to each district. The amount of money a district receives is calculated, in part, on resident students and attendance. There is no credit given for nonresident students. Distributing money in this way insures that districts will charge tuition for nonresident students, creating a barrier to the exercise of Choice. Thus local option may allow choice, but it is generally choice without funding.

One exception and perhaps the broadest authorization of Choice in Missouri law is the case of students in districts without an approved high school. In such instances the law says "each pupil shall be free to attend the school of his or her choice; but no school shall be required to admit any pupil." (Section 167.131, RSMo.) Students are limited by the statute to choosing a district within their county of residence or an adjoining county and the tuition rate paid by the student's district of residence is controlled.

There are some additional enrollment options authorized in Missouri law. These represent more limited choices for certain categories of students and parents or provide some level of funding for nonresident or special students.

(1) If a student's residence is located in such a way as to present an unusual transportation hardship for the student to attend his district of residence, the Commissioner of Education may assign the pupil to another district (167.121);

(2) A student whose parents own real estate which lies in more than one school district, may choose to attend the district other than the district where his residence lies and may be exempt from tuition if the real estate meets certain agricultural guidelines (167.151);

(3) If a tax payer owns land in more than one school district and consequently pays school taxes in more than one district, his child may attend one of those districts as a nonresident student and have his tuition decreased by the amount of school taxes paid in the district (167.151);

(4) Districts operating only kindergarten through sixth grade schools are required to pay the tuition for their junior high and secondary students to attend in other districts within the same or an adjoining county. Limits on the amount of tuition are outlined in the law (171.131);

(5) In the event a district had an average daily attendance of less than fifteen pupils in the previous school year and was closed as a result, the district would provide for the tuition and transportation of its students to another district (171.121);

(6) If a district admits a child of an employed teacher as a nonresident student, that teacher-parent would not be required to pay tuition (168.151);

(7) Orphan children, children with only one parent living, and children whose parents do not contribute to their support may attend school in any district in which they have a permanent or temporary home without paying tuition (167.151);

(8) Districts unable to provide appropriate educational services for handicapped students are required to pay the district providing the educational programs (162.705); and finally

(9) Juveniles placed in a juvenile detention facility and receiving education from school districts other than their districts of residence are not required to pay tuition, but the districts of residence are required to cover the cost of the education provided by the receiving districts, within limits (178.295-178.298).

For some of these types of limited choice, the law also requires transportation. "Transportation for pupils whose tuition the district of residence is required to pay by section 167.131 or who are assigned as provided in section 167.121 shall be provided by the district of residence...." (Section 167.241, RSMo)



## COURT ORDERED CHOICE

A federal court desegregation order for the St. Louis City School District has created Choice for parents and students in specific districts. The district and several suburban districts, which were found to have contributed to the segregation of the city's schools, were ordered to develop a voluntary interdistrict desegregation plan. Under this plan students from the St. Louis school district may elect to attend a suburban district and students in certain suburban districts may elect to attend one of the city's magnet schools. There are certain transfer limits imposed under the court ordered plan and transportation for students is either provided or paid for. Magnet schools serve to attract nonminority students to the city district.

Shortly after the St. Louis desegregation decisions, the federal court ordered the Kansas City School District to desegregate its schools. Unlike the St. Louis case, the suburban districts were not found to have contributed to the segregated education of the district and were not ordered to share in the remedy. However, like St. Louis, magnet schools were established as a part of the court plan, thereby making Choice available to some students.

## CHOICE IN OTHER STATES

Interdistrict Choice legislation has been recently considered in over twenty states and adopted in five. All five states are Midwestern and three border Missouri. Minnesota passed Choice legislation in 1985 and has revised it since. Neighbors Arkansas, Nebraska, and Iowa passed

statewide Choice legislation in 1989. Ohio also passed Choice in 1989 but delayed mandatory district participation until July of 1993. In all five states students entering kindergarten through grade 12 currently enrolled in public and private schools are permitted to apply to attend public schools outside their district of residence. Choice of a new district, however, does not guarantee admission to that district nor, if admitted, guarantee attendance at a particular school within that district. Several key elements are addressed in the legislation of each of these states.

### District Participation

Generally districts may elect not to receive nonresident students. In Arkansas, local school boards which do not admit nonresidents are required to adopt resolutions stating that. Likewise, Minnesota districts may, by board action, declare themselves "closed" to nonresident students. Iowa, Nebraska, and Ohio have similar provisions. However, in all of these states districts must have a basis for not accepting nonresidents, such as insufficient space or personnel to accommodate them. Desegregation laws or court orders may also make a district "closed".

Each state prohibits districts from denying students permission to leave their districts. Most legislatures expressed concern for the impact of Choice on rural districts, however, and limited the number of students that may choose to leave a district during a given year. In Iowa no more than 5% of a district's students may leave in the 1989-90 school year, and no more than 10% in 1990-91. In subsequent years there are no protection limits. The Nebraska legislation has similar



limits. Minnesota's law exempts districts with less than 1,000 students from participating in Choice until the 1990-91 school year.

### Student Admission

Students may be required to meet admission standards under Choice policies. The law in Arkansas requires local school boards to establish these standards. The other states have similar provisions. Minnesota, however, prohibits use of certain items in determining student admissions, including a student's previous academic record, athletic or other extracurricular ability, handicapping conditions, English proficiency, or previous disciplinary proceedings. Nebraska adds a statutory prohibition against recruiting students. Iowa, on the other hand, does not allow a student who has been suspended or expelled from his resident district to choose a new district until he has been reinstated in his district of residence.

Application and enrollment procedures vary from state to state. Iowa requires parents to informally notify the resident district of their intentions to use Choice by September 15 of the preceding school year. Nebraska and Minnesota require completed applications for Choice to be submitted by January 1. And Arkansas requires applications to be postmarked no later than February 1. The statutes of the various states allow Choice districts from 15 days (Iowa) to 60 days (Arkansas) to notify parents and students whether applications have been approved or rejected. Some states allow rejected students to appeal to the state board of education.

### Choice Duration

The states have set various periods for the required duration of attendance in a Choice district. Minnesota's law requires a one year commitment to attend a district of Choice; however, during that year a student may enroll in another choice district, if the parents move or the student's district of residence and district of first-choice agree. Iowa's law requires Choice enrollment for a period of four years. Exceptions to the four-year provision include graduation, family relocation, or relief through special appeal.

In Nebraska, Choice is "available only once to each student prior to graduation, unless the student relocates in a different resident school district". Arkansas does not limit Choice either by duration or number of times one may choose, nor does Ohio.

### Athletic Eligibility

Most states specifically address the issue of the student athlete. A student who transfers to a nonresident district in Iowa or Arkansas is ineligible for interscholastic competition in the Choice district for a period of one year. The Nebraska law takes away student athletic eligibility from both the resident district and nonresident district, but provides exemptions if the two districts have joint sports teams or if the district in which the student resides determines that the transfer was "sought and granted for the purpose of improvement of educational opportunities for the student unrelated to participation in such athletic competition".

## Transportation

Generally, the parent or student is responsible for transportation to the district of Choice. In some states the resident district is required to transport students only to the boundaries of the chosen district; in others the resident district may assist in transporting a student to another district. Arkansas and Ohio parents must request transportation from the boundary to the chosen school. If the family income is at or below poverty level, parents may be reimbursed by the nonresident district for the costs of transportation from the home to the boundaries of the chosen district. Iowa provides the costs of transportation to a contiguous district for students who are eligible for the free lunch program. Nebraska's law requires parents to be responsible for transportation. However, a "mutual agreement" between the district and parents may resolve travel needs.

## Desegregation

All of the states maintain compliance with court-ordered or state-approved desegregation plans. In Minnesota, districts may establish the number of majority and minority student who may transfer into or out of a district. Nebraska's law gives first priority for Choice enrollment to students whose request would aid the racial balance of the Choice district and the resident district. In Arkansas students may not transfer to a district where their race's enrollment percentage exceeds that of the resident district. Furthermore, Arkansas's law limits Choice



when it "would result in a conflict with a desegregation court order", and provides that "the terms of the order shall govern".

### Finance

All states with Choice legislation have considered funding critical to its passage. Two principles have been incorporated into this legislation. The first is that state aid follows the student from the district of residence to the district of choice. In Arkansas, the Choice-student is counted as a part of the average daily membership of his Choice district. Nebraska calculates state aid to be transferred by counting the student in his district of residence. The Minnesota law directs the state to transfer general education revenue and capital expenditure revenue from the resident district to the Choice district. These revenues consist of state aid and some local property tax. These revenues are equalized and the aid transferred is equal to the guaranteed revenue per pupil unit.

The second and more complex principle is that some part of the local aid must also follow the student to the district providing the education. In states where local efforts are relatively equal, such as in Minnesota, where there is a fixed local tax rate, and in Iowa, where the legislature establishes the amount of the local levies, it has been possible to shift some local revenues from one district to another or control for differences in expenditures. Nebraska calculates the county average cost per student and transfers these monies to the district of choice, thereby partially neutralizing differences in local wealth.

Regardless of the specifics of each state's school finance plan relating to Choice, all five states adopted a financing mechanism designed

to limit the revenue lost by resident districts and to provide sufficient revenues to the Choice district to assure adequate financial capability to accept and educate nonresident students. States with small differences in per pupil revenues or expenditures among districts find it easier to finance Choice than states with large differences in per pupil revenues or expenditures among districts.

### Other Provisions

As states needs varied, additional issues were addressed in their laws. Among those issues were special education and contractual programs operated by districts, school consolidation or closing, and program evaluation and review by a legislative committee. All states addressed the issue of graduation requirements either through referencing their state's curriculum or providing for completed credits of study to transfer from districts of residence to districts of choice.

## PROPOSERS OF CHOICE

Proponents offer four major reasons for supporting Choice in public schools. The first of these recognizes that neither all students nor all schools are alike. Therefore, they argue there is no single best school for everyone. Expanding this point proponents argue that parents should make the major decisions concerning their child's education. Assuming that parental choice will improve parent participation and that such participation is desirable, they conclude that ultimately all schools will be improved.

A second reason cited by proponents is based on the marketing principles of private business. Supporters argue that Choice brings competition and that competition improves quality and weeds out poor quality products. Widespread improvements in education are the expected outcomes resulting from competition of public schools under a policy of Choice.

A third main argument of proponents is that Choice exists now for some families, particularly those with middle- and upper-incomes. They exercise Choice by either sending their children to private schools or by purchasing their home in the school district where they want their children to attend. Implementing a policy of Choice will expand educational opportunities for low- and moderate-income families.

The fourth argument of proponents is related to school-improvement efforts. A Choice policy can identify districts in need of special services. Likewise districts losing students through Choice will be forced to evaluate their programs and services and become responsive to resident needs.

## OPPONENTS OF CHOICE

Opponents argue first that public education is not a private enterprise that can be improved and regulated with market-place techniques but rather is a public good. Along this same line some opponents argue that Choice is simply a reworking of the concept of school vouchers. It is viewed by some as a "foot in the door" for private school access to public funds.



Secondly, opponents argue that weaker districts will suffer financially from student exodus. Students without "choosy" parents or without the family resources necessary to exercise Choice will be left behind in weak districts that will only get weaker. Opponents suggest that Choice may contribute to the closing or consolidation of some schools, particularly those in rural areas or schools experiencing either financial difficulties or declining enrollments. They thus conclude that any Choice plan that does not address improvement of all school districts is not truly open enrollment but only a plan for a chosen few.

The third argument of opponents centers around accountability. School districts are political subdivisions and as such are run by locally elected board members. If the school is poorly run, local voters can replace board members. If the school is in need of revenues, local voters can pass bond issues or increase their levy. Those opposed to Choice argue that when parents send their children to a district where they have no voice in selecting school board members or in financing the school, they cannot hold the schools accountable. Conversely, when parents no longer send their child to the district in which they live and vote, they are likely to cease supporting the district's schools with levy and bond issue votes and are less likely to participate in the election of board members.

Fearing that competition between districts will lead them to become more like each other, opponents argue finally that Choice will lead to a lack of diversity among the schools. A recent Education Commission of the States report best summed up this argument.

"Homogeneity rather than heterogeneity can come about in several ways. First as families vote with their feet and popular districts are identified, other districts

may choose to replicate those programs and to withdraw less popular programs which nonetheless serve some families' needs. Second, as states try to provide families with adequate information about schools, they may be tempted to rely more heavily on standardized tests as a way of providing comparable data. Such "high stakes" tests can directly influence the curriculum and pedagogy of all districts and force them toward a single curriculum and style of teaching. Third, if states think that significant numbers of students will be transferring in and out of districts, they may be tempted to encourage a more uniform curriculum among districts in order to avoid discontinuity in student learning." (*A State Policy Maker's Guide to Public School Choice*, p. 15)

## CONCLUSION

As noted at the beginning of this brief there are two types of Choice - intradistrict and interdistrict. Intradistrict Choice policies where choice is among a district's schools with specific learning environments or speciality schools have been extensively studied. Research shows that intradistrict programs that match students to preferred environments enhance both cognitive and affective outcomes and increase parent and teacher satisfaction. Furthermore, intradistrict Choice is favored by 60% of the respondents in the latest Gallup poll.

To date there are no such findings associated with statewide interdistrict Choice policies. Less than 500 Minnesota students participated in Choice during the 1988-89 school year and less than 2,500 are expected to participate in the 1989-90 school year. Iowa had fewer than 450 Choice students in 1988-89 during a pilot year of Choice. Other states have still newer programs. Research results and polls addressing interdistrict Choice are not yet available.

What is known is that Choice, in limited forms, exists in Missouri. An expansion of Choice has both positive and negative potential and can substantially alter school attendance patterns and funding schemes.

The challenge for policy makers is to determine if implementation of interdistrict Choice in Missouri will (1) increase educational opportunities for all students; (2) reduce disparity in pupil spending through new funding schemes; and (3) contribute to ongoing educational reform.



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